

**ENVIRONMENTAL PROTECTION
ENVIRONMENTAL MANAGEMENT**

DIVISION OF ENVIRONMENTAL SAFETY AND HEALTH

Discharges of Petroleum and Other Hazardous Substances, N.J.A.C. 7:1E

Notice of Administrative Corrections and Change

Take notice that the Department of Environmental Protection (Department) is making administrative corrections and changes to its rules regarding Discharges of Petroleum and Other Hazardous Substances at N.J.A.C. 7:1E to update mailing addresses, correct cross-references, and to correct errors in the list of hazardous substances. When the rules were readopted in 2007, some paragraphs were deleted and others added, resulting in the recodification of some paragraphs; however, at that time not all cross-references to the recodified paragraphs were updated. These administrative corrections to the rules make those updates. Also, N.J.A.C. 7:1E-1.8(a)2 refers to "...water supply system, as defined at N.J.A.C. 7:10-1.3." N.J.A.C. 7:10-1.3 defines "water system" not "water supply system"; accordingly, the Department is correcting N.J.A.C. 7:1E-1.8(a)2 to refer to "water system." N.J.A.C. 7:1E-5.3(e)1 refers in part to "an Emergency Contingency Plan pursuant to N.J.A.C. 7:26-12." The correct citation for an Emergency Contingency Plan is N.J.A.C. 7:26G-8.1, as reflected in the administrative changes below.

Finally, several entries in the list of hazardous substances in Appendix A contain errors that result in either misspellings or the incorrect Chemical Abstract Service (CAS) Number. These errors are being corrected.

Full text of the changed rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

Subchapter 1, General Provisions

7:1E-1.8 Environmentally sensitive areas

(a) For the purposes of designing and implementing a DPCC and a DCR plan, pursuant to N.J.A.C. 7:1E-4, the following shall be considered environmentally sensitive areas:

1. (No change.)
2. Any water resource, as defined at N.J.A.C. 7:19-1.3, which is utilized by a public water system, nonpublic water system, or water [supply] system, as defined at N.J.A.C.

7:10-1.3;

3. - 15. (No change.)

Subchapter 3, Transmission Pipelines

7:1E-3.2 Registration of transmission pipelines

- (a) - (b) (No change.)
- (c) The information required by (a) or (b) above shall be sent to:

Bureau of Release Prevention

New Jersey Department of Environmental Protection

P.O. Box [424]**420, Mail Code 22-03D**

Trenton, New Jersey 08625-[0424]**0420**

Attention: Pipeline Registration

Subchapter 4, Plans

7:1E-4.2 Discharge prevention, containment and countermeasure plans

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(a) - (b) (No change.)

(c) The DPCC plan shall include, at a minimum, the following technical information, in the following order, or indexed to this order:

1. - 6. (No change.)

7. A description of all secondary containment or diversion systems, addressing all standards under N.J.A.C. 7:1E-2.6, including, but not limited to, their capacity and materials of construction. This description can be included with the information required pursuant to [(d)](c)1, 2, 3, 4, 5 and 6 above, as appropriate;

8. - 15. (No change.)

(d) (No change.)

7:1E-4.5 Preparation and submission of plans

(a) – (f) (No change.)

(g) One copy of a DPCC and DCR plan, which must include an original certification pursuant to N.J.A.C. 7:1E-4.11, shall be submitted to the Department for approval. Within 30 days of receipt of approval pursuant to N.J.A.C. 7:1E-4.6, a second copy of the approved DPCC and DCR plan shall be submitted to the Department. Copies shall be sent to:

Bureau of Release Prevention

New Jersey Department of Environmental Protection

P.O. Box [424]**420, Mail Code 22-03D**

Trenton, New Jersey 08625-[0424]**0420**

Attention: Plan Submittal

7:1E-4.6 Approval and conditional approval of plans

(a) - (b) (No change.)

(c) The conditional approval under [(c)]**(b)** above shall set forth a date on which the conditional approval will expire unless the owner or operator has provided maps which satisfy the requirements of N.J.A.C. 7:1E-4.10.

(d) (No change.)

(e) A conditional approval under [(e)]**(d)** above shall set forth a date on which the conditional approval shall expire unless the owner or operator has demonstrated financial responsibility in compliance with the requirements of N.J.A.C. 7:1E-4.4.

(f) – (g) (No change.)

7:1E-4.8 Amendment of plans

(a) Written notice of proposed new construction or installation, substantial modification or replacement of any aboveground storage tank, other aboveground enclosed storage space, any appurtenant structures, or leak detection or other monitoring, prevention, or safety systems or devices shall be provided to the Department at the address in N.J.A.C. 7:1E-4.5[(h)]**(g)** at least 60 days prior to the commencement of construction, installation or modification. The notice shall contain information on what new construction, installation, substantial modification or replacement is being proposed along with a preliminary schedule for the proposed work. This provision does not apply to construction, installation or modification contained in a schedule for upgrading in an approved DPCC plan.

(b) - (e) (No change.)

7:1E-4.9 Plan renewals

(a) At least once every three years following approval or conditional approval of the DPCC and DCR plans, the owner or operator shall renew the DPCC and DCR plans. One copy of the renewal shall be submitted to the Department at the address in N.J.A.C. 7:1E-4.5[(h)](g) at least 180 days prior to the expiration date of the DPCC and DCR plans.

(b) - (f) (No change.)

Subchapter 5, Discharge Notification, Response and Reporting

7:1E-5.3 Discharge notification

(a) - (d) (No change.)

(e) A discharge which is not required to be reported under any other State or federal statute, rule or regulation is not required to be reported to the Department pursuant to (a) above provided the discharge meets the conditions described in (e)1 or 3 below:

1. The discharge occurs at a facility for which a DPCC and DCR plan pursuant to N.J.A.C. 7:1E-4.6, or a Risk Management Plan pursuant to N.J.A.C. 7:31, or an Emergency Contingency Plan pursuant to N.J.A.C. [7:26-12]7:26G-8.1 or a Facility Response Plan pursuant to 40 CFR 112 has been approved; and

i. - iii. (No change.)

2. – 3. (No change.)

(f) (No change.)

7:1E-5.8 Confirmation report

(a) - (d) (No change.)

(e) Any person required to submit a confirmation report for a discharge at a major facility or transmission pipeline shall submit the confirmation report to:

Bureau of Release Prevention

New Jersey Department of Environmental Protection

P.O. Box [424]**420, Mail Code 22-03D**

Trenton, New Jersey 08625-[0424]**0420**

Attention: Discharge Confirmation Report

(f) (No change.)

Subchapter 6: Civil Administrative Penalties and Requests for Adjudicatory Hearings

7:1E-6.4 Procedures for requesting and conducting adjudicatory hearings

(a) - (d) (No change.)

(e) Requests for adjudicatory hearings shall be sent to:

Office of Legal Affairs

New Jersey Department of Environmental Protection

401 East State Street, [4th]**7th** Floor

P.O. Box 402, **Mail Code 401-04L**

Trenton, New Jersey 08625-0402

Attention: Adjudicatory Hearing Request

With a copy sent to:

Bureau of Release Prevention

New Jersey Department of Environmental Protection

[22 South Clinton Avenue, 3rd floor]**401 East State Street, 7th floor**

P.O. Box [424]**420, Mail Code 22-03D**

Trenton, New Jersey 08625-[0424]**420**

Attention: Adjudicatory Hearing Request

7:1E-6.8 Civil administrative penalties for violations of rules adopted pursuant to the Act

(a) - (b) (No change.)

(c) The Department shall determine the amount of the civil administrative penalty for offenses described in this section on the basis of the provision violated and the frequency of the violation. Violations identified as minor or non-minor in accordance with N.J.S.A. 13:1D-125 *et seq.* are set forth in this section. The Department will provide a grace period for any violation identified as minor, in accordance with N.J.A.C. 7:1E-6.9. The number of each of the following paragraphs corresponds to the number of the corresponding subchapter in N.J.A.C. 7:1E.

1. (No change.)

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2. The violations of N.J.A.C. 7:1E-2, Prevention and Control of Discharges at Major Facilities, and the civil administrative penalty amounts for each violation are as set forth in the following table, unless revised pursuant to (d) below:

<u>CATEGORY OF OFFENSE</u> ²	<u>CITATION</u>	THIRD OR				<u>MINOR</u> <u>DAYS</u> ⁴
		<u>FIRST</u> <u>OFFENSE</u>	<u>SECOND</u> <u>OFFENSE</u>	<u>SUBSEQUENT</u> <u>OFFENSE</u>	<u>MINOR</u> ³	
No secondary containment for an above-ground storage tank	2.2(a)1	\$10,000	\$20,000	\$50,000	NM	
* * *						
Failure to follow API 653	2.16(d)1	\$ 2,000	\$ 4,000	\$10,000	NM	
Penalty assessed on a per tank basis						
Failure to follow API 510	2.16(d)[1]2	\$ 2,000	\$ 4,000	\$10,000	NM	
Penalty assessed on a per tank basis						

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Failure to follow API 653 or SP001	2.16(e)	\$ 1,000	\$ 2,000	\$ 5,000	NM
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Penalty assessed on a per tank basis

* * *

3. (No change.)

4. The violations of N.J.A.C. 7:1E-4, Plans, and the civil administrative penalty amounts for each violation, are as set forth in the following table, unless modified pursuant to (d) below:

<u>CATEGORY OF OFFENSE</u> ²	<u>CITATION</u>	THIRD OR			<u>MINOR</u> ³	<u>DAYS</u> ⁴
		<u>FIRST</u> <u>OFFENSE</u>	<u>SECOND</u> <u>OFFENSE</u>	<u>SUBSEQUENT</u> <u>OFFENSE</u>		
Failure to appoint a facility contact	4.2(a)2	\$ 500	\$ 1,000	\$ 2,500	M	30

* * *

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Failure to perform an annual emergency response drill and critique it in writing	4.3(b)4	\$ 1,000	\$ 2,000	\$ 5,000	NM
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Failure to have adequate cleanup equipment and personnel available	4.3[(c)](b)5,6	\$ 5,000	\$10,000	\$25,000	NM
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Failure to demonstrate financial responsibility	4.4(a)	\$ 5,000	\$10,000	\$25,000	NM
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Subchapter 7, Confidentiality Claims

7:1E-7.3 Correspondence, inquiries and notices

(a) (No change.)

(b) A claimant shall direct all correspondence, inquiries, notices and submissions concerning confidentiality claims under this chapter to the Department at the following address:

Bureau of Release Prevention

New Jersey Department of Environmental Protection

P.O. Box [424]**420, Mail Code 22-03D**

Trenton, New Jersey 08625-[0424]**420**

Subchapter 8, Confidentiality Determinations

7:1E-8.10 Classes of information which are not confidential information

(a) Without limiting the ability of the Department to determine that information not listed in this section is not confidential information, the following types of information are not confidential information:

1. - 2. (No change.)

3. Schedules of integrity testing for aboveground storage tanks required to be submitted under N.J.A.C. 7:1E-2.[2(a)4]**16**, and information concerning the methods of testing;

4. Test reports for aboveground storage tanks required to be submitted under N.J.A.C. 7:1E-2.[2.(a)5]**16**;

5. - 7. (No change.)

8. Lists of standard operating procedures required to be submitted under N.J.A.C. 7:1E-4.2[(d)10](c)**14**;

9. - 16. (No change.)

Subchapter 9, Disclosure and Use of Confidential Information

7:1E-9.8 Hearing before disclosure of information for which a confidentiality claim has been made

(a) A claimant may request an adjudicatory hearing to contest disclosure of any information for which a confidentiality claim has been made, at any time before disclosure. The request shall be in accordance with the requirements of N.J.A.C. 7:1E-6.4(b), and shall be delivered to the Department at the following address:

Department of Environmental Protection

Office of Legal Affairs

Attention - Adjudicatory Hearing Requests - DPCC Confidentiality

401 East State Street, **7th floor**

P.O. Box 402, **Mail Code 401-04L**

Trenton, New Jersey 08625-0402

(b) - (e) (No change.)

APPENDIX A, List of Hazardous Substances (Alphabetical Order)

Name	CAS Number
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Abamectin	71751-41-2
* * *	
Catechol	120-80-9
Chinomethionat	[2349] 2439 -01-2

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Chloramben	133-90-4
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1,3-Dichloropropane	142-28-9
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trans-1,3-Dichloroprop[a]ene	10061-02-6
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Dichloropropane-Dichloropropene (mixture)	8003-19-8
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Diepoxybutane	1464-53-5
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Diesel[/Fuel] fuel or #2 heating oil	68476-34-6
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Diethanolamine	111-42-2
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Propetamphos	31218-83-4
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Propham	122-[49] 42 -9
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Propiconazole	60207-90-1
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List of Hazardous Substances (Listed by CAS Number)

CAS Number	Name
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*****	Antimony compounds
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* * *

72-57-1	Trypan blue
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[74-45-6	Chlorodifluoromethane (HCFC-22)*]
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* * *

75-44-5	Phosgene
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75-45-6 Chlorodifluoromethane (HCFC-22)*

75-50-3 Trimethylamine

* * *

122-39-4 Diphenylamine

122-[49]42-9 Prophan

122-66-7 1,2-Diphenylhydrazine

* * *

2312-35-8 Propargite

[2349-01-2 Chinomethionat]

2385-85-5 Mirex

2439-01-2 Chinomethionat

2439-10-3 Dodine

* * *

10049-05-5 Chromic(II) chloride

10061-02-6 trans-1,3-Dichloroprop[a]ene

10099-74-8 Lead nitrate

* * *

68359-37-5 Cyfluthrin

68476-34-6 Diesel[/Fuel]fuel or #2 heating oil

69409-94-5 Fluvalinate

* * *